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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,391	12/21/2001	Pichit Likitcheva	U 013796-2	5454

7590 03/20/2003
Ladas & Parry
26 West 61 Street
New York, NY 10023

EXAMINER

WAKS, JOSEPH

ART UNIT PAPER NUMBER

2834

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/032,391	Applicant(s) LIKITCHIEVA, PICHIT	
	Examiner Joseph Waks	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0303</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a working model or an asserted utility or a well established utility.

The claimed method of creating revolution in a vertical direction without providing a momentum above the axis of rotation makes the system inoperative. The perpendicular displacement of the device with lighter and heavier end without creating an arm between the device and the axis cannot create the momentum for turning the device upside down as expected by applicant.

Claims 1-12 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a working model or an asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

2. Claims 1-12 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The disclosed invention is inoperative because it contradicts the doctrine or principle of conservation of energy.

Doctrine of conservation of energy.

If the boundary considered includes the universe, the principle of the conservation of energy amounts to a statement that the sum total of the energy of the universe is a fixed unalterable quantity.

The principle of the conservation of energy also denies the possibility of "perpetual motion." By "perpetual motion" is meant the devising of some arrangement so that energy in one form can be produced without energy in some other form being used up by the machine. Thus if an engine

could be made to do work on external bodies for an indefinite time, and thus give out energy, without being supplied with energy from without, or diminishing the stock of energy in all its various forms which it originally possessed, we should have a means of creating energy, and this is in direct contradiction to the principle of the conservation of energy.

When a patent applicant presents an application describing an invention that contradicts known scientific principles, or relies on previously undiscovered scientific phenomenon, the burden is on the examiner simply to point out this fact to the appellant... The burden shifts to appellant to demonstrate either that his invention, as claimed, is operable or does not violate basic scientific principles, or that those basic scientific principles are incorrect. As stated by the Patent Office Board of Appeals, *Newman v. Quigg* 681 F.Supp 16, at 18, 5 U.S.P.Q. 2d 1880(1988).

Applicant is required to furnish a working model of their invention in order to demonstrate its operability. See MPEP § 608.03.

Communication

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.


JOSEPH WAKS
PRIMARY PATENT EXAMINER
TC-2800

JW
March 18, 2003